

532 Rec'd PCT/PTC 05 SEP 2000

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#17

26.8.2000

Commissioner of Patents and  
Trademarks  
Washington DC 20231

Re. US Appl.No: 09/242072  
Int. Appl. No.; PCT/AU96/00442  
Filing Date: 05 AUG 96

**Pursuant to CFR §1.181**

**PETITION TO THE COMMISSIONER**

**Petition:**

**Background**

**Annex 1:**

Application 28 JAN 99  
Transmittal Letter / Small Entity Claim/  
Fee Sheet / Bank Draft \$495 / **Declaration by Applicant**

**Annex 2:**

PTO Office Action / 17 JUNE 99

Notification of a Defective Oath or Declaration PCT/DO/EO/917  
Declaration of Applicant  
"does not identify the citizenship of each inventor"

Notification of Missing Requirements.....  
Declaration of Inventor(s)  
"Following must be furnished:  
Declaration identifying the application by International application  
number and international filing date.

Current Declaration does not comply.....for reasons indicated on attached Form PCT/DO/EO/917.”

Applicant's Response / 7 July 99

**Supplemental Declaration**

with International application number and filing date and  
Identifying the citizenship of the inventor.

**Annex 3**

PTO Office Action / 30 AUG 99

Notification of a Defective Oath or Declaration PCT/DO/EO/917  
Supplemental Declaration by Applicant and Inventor  
“does not identify the specification to which it is directed”

Applicant's

Argument:

surely the identified International application number and filing date listed in the Supplemental Declaration (Annex 2) fulfils this requirement?

Additionally the Oath or Declaration does not comply:  
“does not state that the person making the oath or declaration

2.

a) has reviewed and understands.....etc.

b) acknowledges the duty to disclose information.....etc.

3. does not identify the foreign application for patent.....etc

4. does not state that the person making the oath.....etc.

5. (hand written)

A blank copy of the declaration is attached beneath for the applicant's convenience.

Applicant's

Argument:

No blank copy of the declaration was contained in the envelope.  
7 SEPT 99: The applicant and inventor forwarded a **Second Supplemental Declaration** fulfilling all the above 2-4 requirements.

**At this juncture the Applicant and Inventor believed that all the preliminary requirements of the application had been fulfilled.**

However this was not to be the case.

## **Annex 4 / 5**

PTO Office Action / 8 OCT 99 & 3 NOV 99 on a 30 day reply deadline.

The copy of the front of the PTO envelope (Annex 5) shows the mailing date of the Office Action as 8 NOV 99 and insufficient stamp tax. The letter was returned to the PTO from Rotterdam stating this fact.

The Applicant received the letter on 16 DEC 99 i.e. more than a week after expiry of the 30 day reply deadline.

### **Contents:**

- Notification of a Defective Response PCT/DO/EO/916  
“A blank copy of the declaration is enclosed for the applicant’s convenience.”

- Notification of Defective Oath or Declaration  
PCT/DO/EO/917  
“Applicant’s submission with filing date 15 SEPT 99  
does not identify the citizenship of each inventor”

- Blank forms:  
PTO/S8/01; PTO/S8/02A; PTO/S8/02B; PTO/S8/02C

### **Applicant’s**

**Argument:** The Applicant forwarded successive Declarations, namely a SUPPLEMENTAL DECLARATION (mailed 7 JULY 99, ANNEX 2) and a SECOND SUPPLEMENTAL DECLARATION (mailed 7 SEPT 99, ANNEX 3) to fulfil successive separate PTO Office Action requirements.

These are valid Declarations and contain all the requirements made known to the Applicant.

The Applicant claims that there are no grounds for further PTO Office Actions concerning these preliminary formalities.

### **ANNEX 6/7**

Applicant's letter dated 18 DEC 99 informing the PTO about the letter that had gone astray asking for relief.

In fact the applicant received no response from the PTO and completed the blank forms mentioned above (copies in Annex 7) forwarding them to the PTO with recorded delivery on 24 DEC 99.

### **ANNEX 8**

3 JAN 2000: Evidence of the setting up of a deposit account by the Applicant with the PTO settled any existing and future requirements concerning fees.

Deposit: \$1055.—

Acc. No.: 501200

### **ANNEX 9**

PTO Office Action dated 8 FEB 2000

The Applicant had trouble making head nor tail of this.

The part concerning fees was settled with the opening of the above named PTO account of the Applicant.

The CONCLUSION that the present application is ABANDONED is without any foundation whatsoever.

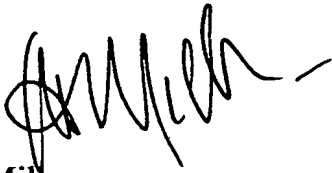
The proof of the "timely reply" by the Applicant to the Notification of Defective Response is contained in Annex 6/7.

### **ANNEX 10**

Proof is contained that the Applicant made subsequent proper requests for reconsideration pursuant to CFR 1.181 (c) also without any response from the PTP whatsoever.

## **CONCLUSION**

The Applicant requests the Commissioner to take the necessary action based on the present arguments and evidence in the enclosed Annexes to allow the examination procedure to go ahead in an orderly fashion.

A handwritten signature in black ink, appearing to read 'Peter Miller', with a horizontal line extending from the end of the signature.

Peter Miller  
Applicant and Inventor

Enclosed: Annexes 1-10